

Claims 1-7 stand rejected under 35 USC §112, second paragraph. The Applicant continues to maintain the while the Examiner may properly object to the claim, a §112 rejection does not seem to be an appropriate rejection under these circumstances. The Claim specifies the units of the oxygen permeability data. There is nothing vague or ambiguous about the units used in the Claim. The Applicant stated in the previous response that the units used in the present application are not required to be conformed to the units used in the reference, and that the units used herein are the units of measure derived as a consequence of using ASTM 3985 to determine the permeability. The claim is fully supported by the specification, and the specification is clear as to the method used to determine the permeability of the laminate. However, as noted above, Claim 1 has been amended to include the ASTM test method used.

Claims 1-4 and 6-7 stand rejected under 35 USC §103(a) as unpatentable over Parks, et al. The Examiner states that Parks discloses a laminate which reads on the Applicant's claimed invention.

The Applicant respectfully disagrees. While there may be some slight overlap between the reference and the Applicant's claimed invention with respect to oxygen permeability, the cited reference is completely silent with respect to the Applicant's claim limitation for the barrier properties of the laminate with respect to water vapor. The Examiner's assertion that the reference meets this claim limitation is not understood in light of this silence and the teaching in the Applicant's specification. In the Background, at page 1, lines 15-21, Applicant describes laminates having polyethylene seal layers, much like Parks' laminates, wherein the polyethylene seal layer of the laminate makes the water vapor transmission below and outside of the Applicant's claimed range limitation. There is nothing in Parks to teach or suggest that the polyethylene seal layer would provide a water vapor barrier within the Applicant's claimed range. In fact, the reference teaches away from the present invention by using a water-vapor impermeable seal layer. Since it is a requirement for a show

of obviousness that each and every element of the Claim be met by the cited art, Parks alone cannot be used to show obviousness.

Claim 5 stands rejected under 35 USC §103(a) as unpatentable over Parks, et al. further in view of Zabrocki.

The Applicant respectfully disagrees. The deficiency of Parks is not cured by Zabrocki. The combination of Parks and Zabrocki does not produce the Applicant's claimed invention, wherein the claimed laminate has the O₂ and water vapor transmission properties of the claimed invention. Parks is completely silent on the water vapor transmission properties of the laminates described therein. Zabrocki is referenced only for the purpose meeting the limitation of Claim 5 in layer (b) in Claim 5.

In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,


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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In showing the changes, inserted material is shown underlined.

IN THE CLAIMS:

1. (amended) A flexible or semi-flexible packaging material with an oxygen barrier between 10 and 100 cc/m²d atm as determined by ASTM D3985-95 and a water vapor barrier between 100 and 1000 g/m²d at 38°C and 90% relative humidity, as determined according to DIN 53122 issued in July 1982, comprising

- (a) a layer of paper having a weight between 20 and 400 g/m²
- (b) a layer of ethylene copolymer or grafted ethylene copolymer having a weight between 1 and 5 g/m² adjacent to layer (a), and

a layer of nylon comprising between 5 and 100 weight % of amorphous nylon and 0 and 95 weight % semicrystalline polyamide 6 having a weight between 10 and 30 g/m² adjacent to layer (b).